

**Sections:****25-101 Purpose and Intent****25-102 Applicability****25-103 Definitions****25-104 Additions and Changes to Conditional Uses****25-105 Circumstances Requiring Application of Limited Scale Commercial Solar Energy Systems****25-106 Contents of a Development Plan and Plan of Operation****25-107 Documents, Plans, Studies, Reports, Other Permits****25-108 Additional Required Topics to be Included in Submittals****25-109 Special Regulations Applicable for a Conditional Use Permit for a Limited Scale Commercial Solar Energy System****25-110 Decommission Agreement****25-111 Construction Requirements****25-101 Purpose and Intent:**

1. The purpose of this Article is to ensure a regulatory means of facilitating development of a limited scale commercial solar energy system facility within the unincorporated portion of Reno County having zoning jurisdiction by providing reasonable requirements for the submittal of proposals for the establishment of a limited scale commercial solar energy system and to provide adequate information to the officials of Reno County charged with the responsibility to review said proposals.
2. To the extent there are conflicts between the requirements of Article 25 and other provisions of the Reno County Zoning Regulations, it is intended that the requirements of Article 25 shall control the interpretation of the Zoning Regulations.

**25-102 Applicability:**

1. All limited scale commercial solar energy system development within this Article, as described herein, shall comply with the standards and procedures of this Article and those required for a Conditional Use Permit as stated in Articles 8 and 15. It shall be understood that the "timeline" restrictions in Articles 8 and 15 may not be applicable to a limited scale commercial solar energy system project because of the overall time for the development and construction.
2. Article 20-104(2) of the Zoning Regulations shall not be used to modify, adjust, or change any requirement under Article 25.

**25-103 Definitions:** The following definitions listed below supplement the definitions listed under Article 1-104 of the Zoning Regulations.

1. **Non-participating landowner:** An individual, group of individuals, a trust, or other entity owning real property who or which has not signed a lease agreement with the owner or operator of a limited scale commercial energy system project for the placement of a solar energy system on the real property or declines to join in the limited scale commercial energy project.
2. **Participating landowner:** An individual, a group of individuals, a trust, or other entity owning real property who or which has signed a lease agreement or has agreed to sell real property with the owner or operator of a solar energy system project for the placement of a limited scale commercial energy system on the real property, or otherwise agrees to join in the limited scale commercial energy project.

3. **Principal Building:** A primary residential, commercial, or industrial structure. A principal residential structure shall not include a guest house or buildings whose purpose is to store equipment, commodities, or animals.
4. **Solar Energy System:** The components, equipment, and subsystems required to convert energy from the sun into electric or thermal energy. This includes all the land occupied by the components, equipment, and subsystems together with all necessary requirements of the Zoning Regulations.
5. **Solar Energy System, Commercial:** A type of energy facility which is greater than ten acres in size or capable of generating greater than two megawatts of AC power for the purpose of producing, storing and/or selling the generated electricity for use in a larger electrical network and is not for private use.
6. **Solar Energy System Facility:** A limited scale commercial energy system project which received an approved Conditional Use Permit or was established prior to the adoption of Article 25.
7. **Solar Energy System, Limited Scale Commercial:** A type of energy facility which is ten acres or less in size and generates two megawatts of AC power or less per Facility. The produced electricity is not transferred to a third party, however, net metering to a utility company is permitted.
8. **Solar Energy System, Private:** A type of solar energy system that is only for personal use and is accessory to the primary use of the property. The solar energy system generates electricity for consumption onsite and only for the property where the electricity is generated and is not transferred or sold to a third party. Net metering is permitted under a private solar energy system.
9. **Solar Energy System Project:** A limited scale commercial energy system which has not received an approved conditional use permit.
10. **Solar Panel:** A individual piece of equipment used to absorb the sun's rays and convert energy into electricity or heat.

**25-104 Additions and Changes to Conditional Uses:**

1. All subsequent requests for additions to Conditional Uses approved by the County Commissioners shall be considered in the same procedure as outlined in Article 15-102.

**25-105 Circumstances Requiring Application of Limited Scale Commercial Solar Energy Systems:** The following circumstances require application of this Article and sets standards and procedures within the Article:

1. An application for a Conditional Use Permit for a Limited Scale Commercial Solar Energy System.
2. An application for a Conditional Use Permit for an expansion of a Limited Scale Commercial Solar Energy System beyond the area previously approved by a Conditional Use Permit.
  - A. A parcel(s) of land operating a limited scale commercial energy system with an approved Conditional Use Permit or in operation prior to the adoption of this Article shall be considered exempt from these regulations and be permitted to continue operating at the intensity in existence at the time of the adoption of these regulations. Any increase in the number of solar panels or acreage shall require the owner to comply with Article 25.

- B. A parcel(s) of land operating a limited scale commercial energy system facility with an approved Conditional Use Permit and site plan shall be permitted by right to increase or decrease the number of panels, increase or decrease the dimensions of the solar panels, or rearrange the location of the solar panels if the change(s) comply with the approved conditional use permit, site plan, and Article 25. Non-compliant changes shall require a new conditional use permit as provided for under Article 25-102. Routine maintenance and repair of the facility is not subject to a new conditional use permit.
3. General Public Hearing Procedure as outlined in Article 20-102
- A. The applicant shall file the Conditional Use Permit Application at the Public Works Department and include all required supporting documentation and the appropriate filing fee.
  - B. The Planning Commission will conduct the required public hearing following all statutory requirements. At the conclusion of the public hearing the Planning Commission will recommend approval, denial, or make no recommendation on the Conditional Use Permit Application.
  - C. At the conclusion of the statutory 14-day protest period, the Conditional Use Permit Application will be submitted to the County Commissioners for their consideration of the Planning Commission recommendation.

**25-106 Contents of a Development Plan and Plan of Operation:** The information listed below shall be submitted with the conditional use permit application. It shall be the duty of the Zoning Administrator to determine when a conditional use permit application is complete and ready to schedule for a public hearing. All information listed below shall be submitted prior to the Planning Commission making a recommendation. The Planning Commission or County Commissioners may require additional information not listed below.

- 1. A project map drawn at a scale of not less than 1" = 100' showing the additional information as outlined in Article 25-106.
  - A. All applicable development plan requirements under Article 8-103 of the Zoning Regulations.
  - B. Project boundary and the total acreage.
  - C. The location of any buildings, structures, transformers, equipment racks, battery storage buildings, and solar panels within the project boundary
  - D. The number of solar panels and the type of system mounting (i.e., fixed-tilt on a ground mount, axis tracking ground mount, other type of system mounting).
  - E. The maximum height of the solar panel from the ground elevation to the top of the solar panel.
  - F. The power capacity of the project.
  - G. Topography of the parcel with one-foot contour intervals.
  - H. The location of any temporary assembly area(s) used during construction of the project.
  - I. All public roads, ingress/egress easements, and private access roads serving the project.

- J. Lands identified as a special flood hazard area.
  - K. Lands identified by the Kansas Department of Wildlife, and Parks or U.S Fish and Wildlife Service as a wetland, native vegetation area, wildlife habitat, or critical species habitat worthy of special consideration or protection.
  - L. All required setbacks and requirements around land uses as described in Article 25.
  - M. The project shall indicate compliance with all requirements contained in Article 25.
2. A general site description which includes a project introduction, the information listed above, the anticipated construction schedule, and other relevant information as deemed appropriate by the applicant or as required by County staff, the Planning Commission, or County Commissioners.

**25-107 Documents, Plans, Studies, Reports, Other Permits:** The information listed below shall be submitted with the conditional use permit application and used to evaluate compliance with the Zoning Regulations. The Planning Commission may require additional information not listed in Article 25-107 or conduct separate studies for the purpose of evaluating the proposed conditional use permit.

1. List of property owners within the then current minimum zoning regulation requirement of the subject property boundary proposed to receive a limited scale commercial solar energy system project or a temporary use associated with the project. The list of adjacent property owners shall be from the subject property boundary not from the lease area.
2. All solar panels must be designed and constructed to minimize glare or reflection onto adjacent properties, roads, aircraft, or create a safety hazard per any Local, State, or Federal Regulation.
3. Documentation on how the limited scale commercial energy system project will manage stormwater runoff, soil erosion, grading, re-vegetation, and other construction management practices. The document shall address how the disturbed area will be re-seeded or some other sediment control practice utilized and how noxious weeds will be controlled. The vegetation plan shall describe how the ground beneath the solar panels will be restored. The use of native prairie grasses suitable for livestock grazing on cultivated land is an acceptable and encouraged ground cover. The utilization of impervious material, such as concrete or asphalt, beneath the solar panels is prohibited. Access roads or driveways may utilize gravel, rock, or other impervious material with an approved stormwater management plan.
4. The applicant shall provide a list of all required local, state, and Federal government agencies required to review or approve of a limited scale commercial solar energy system project. A copy of each approved permit shall be provided to the Zoning Administrator prior to the construction of the solar energy system facility. Approval of a conditional use permit without all other submitted permits does not grant authority to the applicant to begin construction on the limited scale commercial energy system facility. The County will not be held liable for the applicant not contacting the required local, state, or Federal government agencies for needed review and/or approval.

**25-108 Additional Required Topics to be Included in Submittals:** In addition to the requirements of Article 8, an application for a limited scale commercial energy system project shall address specific issues related with the project that include, but are not limited to, the following:

1. In addition to strict conformance to all performance standards and development plan requirements as detailed in the Zoning Regulations, the development plan shall address the following:

- A. The "boundary" of the project shall be the property included within the legal description on which the project is proposed to be constructed and show the specific location of the solar panels, including any above ground components. The limited scale commercial energy system may be shown conceptually within the development plan and is permitted to be moved and adjusted as necessary during the construction process without modifications to the approved development plan so long as new land is not added to the original "boundary" of the project and the relocation conforms to all requirements of Article 25. Any relocation of individual components contrary to the approved site plan shall be identified on a revised site plan and submitted to the Public Works Department for review and approval.
- B. No limited scale commercial solar energy system project shall be located within two miles (10,560 feet) of an existing limited scale commercial solar energy system or another proposed limited scale commercial solar energy project. A location map with section-line roads shall be submitted indicating the location of the proposed limited scale commercial solar energy project and the nearest existing facility or project.

A commercial scale solar energy system or project or a limited scale commercial solar energy system or project located within an incorporated city limit boundary or a city's extra-territorial zoning jurisdiction are exempt from the two-mile calculation.

The two-mile restriction is calculated from the nearest parcel boundary line or lease boundary line of the limited scale commercial solar project subject to the conditional use permit and the nearest parcel boundary line or lease boundary line of an existing limited scale commercial solar system or other proposed limited scale solar energy system project.

2. **Setbacks:** The following setback requirements shall be the minimum distance for any solar panel located within a limited scale commercial energy system project. Setbacks shall be measured from the property line to the nearest end of the solar panel when the panel is horizontal to the ground. Additional setback requirement may be implemented through the conditional use permit process to assist in mitigating a site-specific issue(s).
  - A. 100 feet from a public road right-of-way and all non-participating landowner's property lines in effect at the time the conditional use permit application is accepted by the Zoning Administrator as being complete.
  - B. 500 feet from a non-participating landowner's principal building.
  - C. 25 feet from a fence associated with providing security for a solar energy system facility.
  - D. No limited scale commercial solar energy project shall be located within any recorded easement. The applicant shall consult with the owner of an easement to eliminate any blanket easements on a parcel of land and to establish a defined legal description for the easement.
3. **Height:**
  - A. The maximum height of the solar panels shall not exceed 15 feet measured from the elevation of the ground surface at the base of the solar panel to the highest point of the solar panel when the panel is vertical to the ground.
  - B. The height restriction shall not apply to transmission lines. All other buildings shall comply with the height restriction under Article 13 of the Zoning Regulations.

**4. Fencing:**

- A. A limited scale commercial solar energy system facility shall be enclosed by a perimeter fence. The fence shall be constructed of new chain link or other material reviewed by the Planning Commission. All other materials not originally intended to be used for constructing or maintaining a fence, including corrugated metal, are prohibited.
- B. Barbed wire or razor-wire is permitted on top of a fence to aid in security of the limited scale commercial energy conversion facility if indicated on the site plan.
- C. The fence shall be a minimum of eight feet in height to aid in restricting unauthorized access to the solar energy facility. The fence is not required to be located on the lease area or property line.

**5. Lighting:**

- A. No lights shall be installed at a limited scale commercial solar energy system facility unless reviewed by the Planning Commission and approved by the County Commissioners during the conditional use permit process.
- B. Any lighting required by Federal or state regulations is exempt from this requirement if written documentation is submitted with the conditional use permit application.
- C. Temporary lights needed for investigating concerns or repairing the limited scale commercial solar energy facility are exempt from this requirement.

**6. Communication and Distribution Lines:**

- A. All new communication and distribution lines associated with a limited scale commercial solar energy system facility shall be installed underground in the project area covered by the conditional use permit.  
  
The method of underground installation chosen shall result in the least amount of disruption and damage as possible to the surface soil and natural features. When conditions on-site are found to make installation of underground supporting lines impractical or infeasible, for example, the presence of existing underground electrical lines or pipelines that conflict with such type of construction, above ground transmission lines may be used to avoid the obstruction.
- B. Installation of above ground or below ground communication lines or power collection lines within a Special Flood Hazard Area will require a floodplain development permit.

**7. Signs:**

- A. Warning signs shall be installed as required by Federal or state regulations identifying the potential dangers of entering the facility. The signs shall also include emergency contact information.
- B. The solar energy system facility lease area shall not display any advertising signs, billboards, flags, streamers, or other items excepted as required under Article 25-107(7)(a).

8. **Battery Energy Storage System:** All battery energy storage systems shall comply with requirements of the National Fire Protection Association (NFPA) 855 *Standard for the Installation of Stationary Energy Storage Systems* and all applicable local, state, and Federal regulations. The following standard shall:
- A. Battery storage systems, including all mechanical equipment, shall be enclosed in a building suitable for storing batteries and include a locking mechanism to aid in preventing unauthorized access.
  - B. The area within ten (10) feet on each side of a battery energy storage system shall be cleared of combustible vegetation and surfaced with gravel or other non-combustible material.
  - C. Warning signage spacing shall be the minimum Federal or state requirement.
  - D. Battery storage shall not be located within 500 feet of a non-participating property owner's principal building. For this section, an existing principal building shall mean that the principal building is on-site at the time the conditional use permit is approved or a zoning permit is approved, but not expired, prior to approval of a conditional use permit.
9. **Noise:**
- A. The operational noise generated from the solar installation equipment, including inverters, battery energy storage systems, components, and associated ancillary equipment shall not exceed a noise level of 60 decibels (60dBA) as measured from the nearest outer wall of a non-participating landowner's principal building.
  - B. Transformers, inverters, or other sound or vibration generating equipment must be placed so that low level recurring ambient noise does not exceed the noise level in Article 25-108(9). Noise levels can be minimized with the type of equipment or the placement of equipment interior to the site, shielded by proposed solar panels, and/or by specifically placed noise and vibration deadening fence, landscaping, or other efforts.
10. **Operation Requirements:**
- A. The limited scale commercial solar energy system and its associated facilities shall not be operated and cause microwave, television, radio, telecommunication, or navigation interference contrary to Federal Communications Commission (FCC) regulations or other laws to occupied structures existing as of the date of the conditional use permit approval. In the event the limited scale commercial solar energy system and its associated facilities or its operations cause such interference, the applicant shall take timely measures necessary to mitigate the interference.
  - B. Outdoor storage of any materials or equipment associated with a limited scale commercial solar energy system is permitted only while constructing the facility, decommissioning the facility, repairing or replacing components of the facility, or as permitted by an approved conditional use permit.
  - C. Kansas identified noxious weeds must be sprayed and controlled within the solar energy system facility. The solar energy system parcel or leased area, including the land underneath

the solar panels and between the rows of solar panels, shall not contain grass greater than three feet in height.

**11. Soil Erosion, Sediment Control, Stormwater Runoff, and Wetlands:**

- A. The Applicant shall develop a Soil Erosion, Drainage, Sediment Control and Stormwater Runoff Plan. The Plan shall address what type of erosion control measures will be implemented during the development of the project. The Plan shall address the following concerns:
- (1) Grading.
  - (2) Construction and drainage of access roads.
  - (3) Necessary soil information.
  - (4) Design features to maintain downstream water quality.
  - (5) Re-vegetation of disturbed area to ensure slope stability.
  - (6) Restoration of the site after project activities have ended.
  - (7) Protection of wetland areas.
  - (8) Disposal or storage of excavated materials.
  - (9) Protection of exposed soil.
  - (10) Stabilization of restored material and removal of silt fences or barriers when the area is stabilized.
  - (11) Maintenance of erosion control measures throughout the life of the project.
- B. If required, the Applicant shall obtain an erosion control permit for the limited scale commercial solar energy system project from the Kansas Department of Health and Environment (KDHE). The approved erosion control permit shall be submitted prior to construction of the solar energy system facility. The measures listed above shall be the minimum required under the issued KDHE permit.

**12. Special Flood Hazard Areas:**

- A. If required, the Applicant shall obtain a floodplain development permit from the Kansas Department of Agriculture – Division of Water Resources and the County, for any development identified as being in a special flood hazard area. Such development could include, but not be limited to, the placement of a solar panel, construction of a road, construction of a berm, location of an electrical line under a stream, or the location of a building.
- B. To the extent feasible, the design of a limited scale commercial solar energy system project should have minimal impact of land identified as within a special flood hazard area. It is

expected of the applicant to locate all solar panels and buildings out of the special flood hazard area so the project will have no impact on the special flood hazard area.

- C. Any part of a limited scale commercial solar energy system project, including buildings used to store batteries, is prohibited from being located within a regulatory floodway. Removal of land within a regulatory floodway by a Letter of Map Change (LOMC) process is prohibited.

**25-109 Special Regulations Applicable for a Conditional Use Permit for a Limited Scale Commercial Solar Energy System:** The timeline restrictions in Article 8 and Article 15 are not applicable to a limited scale commercial energy system because of the overall length of time necessary for construction of the development. With respect to a limited scale commercial energy system approved after the adoption of this section:

1. For all conditional use permits issued for a limited scale commercial solar energy system, construction shall commence within two (2) years of the approved conditional use permit. Approval of the conditional use permit is effective (the "EFFECTIVE DATE") when the County Commissioner Resolution approving the same is published in the official county newspaper or other such requirement. If construction cannot be commenced within that two (2) year period, the applicant may obtain a single one-year extension upon the submission of a written report to the County Commissioners describing the reason(s) for the delay and the plan for commencing construction within the one-year extension period. The one-year extension must be approved prior to the expiration of the original two-year period.
2. For all conditional use permits approved for a limited scale commercial solar energy system, such permit shall be permitted to continue, as long as all conditions placed on the permit are met. However, if construction has not commenced within two (2) years following approval of the conditional use permit or any extension thereof as aforesaid, the conditional use permit shall have expired, and the development plan is forfeited. In such event, the Applicant, or a new Applicant, will not be permitted to pursue the Development Plan until a new application is submitted, a new public hearing held, and a new conditional use permit is approved.

**25-110 Decommission Agreement:** Upon the EFFECTIVE DATE of a conditional use permit by the County Commissioners, the applicant agrees to comply with all requirements listed in Article 25-110.

1. Decommissioning of a limited scale commercial solar energy system facility shall consist of the following requirements:
  - A. The parcel or leased land area shall be returned to the property's original condition in existence prior to construction of the limited scale commercial solar energy facility, such as cropland or native grass.
  - B. Enforcement of this Article shall commence when the limited scale commercial solar energy system facility has not produced any electricity for twelve (12) consecutive months. If requested, proof of electrical production shall be the responsibility of the applicant in order to cease decommission requirements.
  - C. Upon written notification from the County, the applicant shall commence decommission of the facility within two months of the notification. Decommission shall be completed within six months of the commencement notification. Extensions of time may be granted by approval of a majority of the County Commission.

**25-111 Construction Requirements:**

1. The Applicant shall inform all employees, contractors and others involved in the construction of the limited scale commercial solar energy system facility of the terms and conditions of the approved conditional use permit. Violations of the conditions associated with the conditional use permit are the responsibility of the Applicant/owner of the limited scale commercial solar energy facility, not the landowner leasing or selling the parcel.
2. Any off-site construction needs outside of the permitted conditional use permit shall comply with all applicable Zoning and Subdivision Regulations.
3. Cleanup: The Applicant, or its construction company, shall remove all waste, scrap, and temporary erosion control measures that are the product of construction, operation, restoration, and maintenance from the site and properly dispose of it upon completion of the solar energy system facility.
4. Transfer of Ownership: If ownership of the limited scale commercial solar energy system facility is transferred from the solar energy project Applicant identified in the original permitting documents to any entity, the new owner shall be responsible and accountable for the terms and conditions of the approved Conditional Use Permit, the zoning permit requirements, and all applicable requirements of the Zoning and Subdivision Regulations. Notice of such transfer and acknowledgment by the new owner of compliance obligations shall be provided to the Zoning Administrator.